

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Rolando Menendez,

Complainant,

vs.

Pacific Gas and Electric Company (U39E),

Defendant.

Case 11-10-024  
(Filed October 20, 2011)**ORDER EXTENDING STATUTORY DEADLINE****Summary**

Pub. Util. Code § 1701.2(d) provides that adjudicatory matters such as this complaint case shall be resolved within 12 months after they are initiated, unless the Commission makes findings why that deadline cannot be met and issues an order extending the 12-month deadline. In this proceeding, the 12-month deadline for resolving the case is July 20, 2013. The case cannot be resolved by that date because of a combination of factors, including the time reasonably taken to resolve new discovery issues that could result in a settlement. Because of those factors, we have concluded that it is appropriate to extend the 12-month deadline in this case for nine months, until April 20, 2014.

**Background and Procedural History**

The Complainant here seeks a permanent restraining order against Pacific Gas and Electric Company (Defendant) to halt the reinstallation of a recloser and primary 12 kilovolts distribution line in an easement across Rolando Menendez's

(Complainant) back yard. The previous distribution line caught fire, fell to the ground and caused two fires on May 21, 2009, and has been de-energized since. Complainant wants the replacement line placed underground and at a different location for safety reasons. Defendant alleges that the fires were caused by a squirrel, that undergrounding would be too expensive and that restoration of the subject line is necessary to avoid service interruption for approximately 4,000 customers in the event of an outage.

In December 2011, after the pleadings were complete, the parties elected to engage in mediation in response to an invitation by the assigned Administrative Law Judge (ALJ). On December 22, 2011, a neutral was appointed and the alternate dispute resolution process began shortly thereafter. On July 30, 2012, the neutral informed the ALJ that the efforts at a mediated settlement were unsuccessful and at an end. When the matter returned to the assigned ALJ his schedule was filled by a major assignment and an extension order, Decision (D.) 12-09-030, was issued on October 1, 2012 in recognition of there being inadequate time for undertaking and completing the evidentiary hearing, legal briefing, presiding officer's decision (POD) and an allowance of time for appeals and requests for review. D.12-09-030 extended the deadline for this matter to July 20, 2013.

**Discussion**

Initial discovery between the Complainant and the Defendant led to discovery disputes. The attempt to resolve those disputes with the assistance of the assigned ALJ has revealed new factual issues bearing on public safety for which additional discovery is warranted and on which a settlement could be based. The time now remaining before the July 20, 2013 deadline is inadequate for undertaking and completing further discovery, an evidentiary hearing,

briefing, presiding officer's decision and an allowance of time for appeals and requests for review. An extension of time until April 20, 2014 should allow adequate time for such additional discovery and, failing settlement, for an evidentiary hearing, briefing, the preparation and mailing of a POD, and provide parties with time to decide whether to file an appeal of the POD pursuant to Rule 14.4(a) of the Commission's Rules of Practice and Procedure<sup>1</sup>, and allow any concerned Commissioner to decide whether to request review of the POD pursuant to Rule 14.4(b).

**Waiver of Comments Perior**

Under Rule 14.6(c)(4) of the Rules of Practice and Procedure, the Commission may waive the otherwise applicable 30-day period for public review and comment on a decision that extends the 12-month deadline set forth in Pub. Util. Code § 1701.2(d). Under the circumstances of this case, it is appropriate to waive the 30-day period for public review and comment.

**Assignment of Proceeding**

Michel Peter Florio is the assigned Commissioner and Gary Weatherford is the assigned ALJ and presiding officer in this proceeding.

**Findings of Fact**

1. The complaint in this case was filed on October 20, 2011.
2. Unless extended, the present deadline for resolution of this matter is July 20, 2013.
3. An extension of time until April 20, 2014 should allow adequate time for an additional stage of discovery that may result in settlement, or failing settlement,

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<sup>1</sup> All references to Rules are to the Commission's Rules of Practice and Procedure.

for an evidentiary hearing, briefing, the preparation of a POD, and provide parties with time to decide whether to file an appeal of the POD pursuant to Rule 14.4(a), and allow any concerned Commissioner to decide whether to request review of the POD pursuant to Rule 14.4(b).

**Conclusions of Law**

1. Pursuant to Pub. Util. Code § 1701.2(d), an extension order should issue because of the lengthy period of time that is reasonably needed to complete this matter.

2. The 12-month statutory deadline, as previously extended, should be extended further for nine months to allow for resolution of this proceeding.

**IT IS ORDERED** that the current 12-month statutory deadline in this proceeding of July 20, 2013 is further extended to April 20, 2014.

This order is effective today.

Dated \_\_\_\_\_, at San Francisco, California.